

Senate Study Bill 1105

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON REDFERN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to real property, including acknowledgments of
2 real property conveyances and limitations on causes of action
3 concerning real property.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 2476SC 80
6 sc/pj/5

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1 1 Section 1. Section 558.20, Code 2003, is amended to read
1 2 as follows:
1 3 558.20 ACKNOWLEDGMENTS WITHIN STATE.
1 4 The acknowledgment of any deed, conveyance, or other
1 5 instrument in writing by which real estate in this state is
1 6 conveyed or encumbered, ~~if whether~~ made within this state,
1 7 ~~must be before some court having a seal, or some judge or~~
~~1 8 clerk thereof, or some county auditor, or judicial magistrate~~
~~1 9 or district associate judge within the county, or notary~~
~~1 10 public within the state. Each of the officers above named is~~
~~1 11 authorized to take and certify acknowledgments of all written~~
~~1 12 instruments, authorized or required by law to be acknowledged~~
1 13 outside this state, outside the United States, or under
1 14 federal authority, shall comply with the provisions of chapter
1 15 9E.
1 16 Sec. 2. Section 558.40, Code 2003, is amended to read as
1 17 follows:
1 18 558.40 LIABILITY OF OFFICER.
1 19 Any officer, who knowingly misstates a material fact in
1 20 ~~either any~~ of the certificates mentioned in this chapter ~~or~~
1 21 ~~chapter 9E~~, shall be liable for all damages caused thereby,
1 22 and shall be guilty of a serious misdemeanor.
1 23 Sec. 3. Section 558.42, Code 2003, is amended to read as
1 24 follows:
1 25 558.42 ACKNOWLEDGMENT AS CONDITION PRECEDENT.
1 26 ~~It~~ A document shall not be deemed lawfully recorded, unless
1 27 it has been previously acknowledged or proved in the manner
1 28 prescribed in ~~this chapter or~~ chapter 9E, except that
1 29 affidavits, and certified copies of petitions in bankruptcy
1 30 with or without the schedules appended, of decrees of
1 31 adjudication in bankruptcy, and of orders approving trustees'
1 32 bonds in bankruptcy, and Uniform Commercial Code financing
1 33 statements and financing statement changes need not be thus
1 34 acknowledged.
1 35 Sec. 4. Section 602.8102, subsection 78, Code 2003, is
2 1 amended to read as follows:
2 2 78. Certify an acknowledgment of a written instrument
2 3 relating to real estate as provided in section 9E.10 or
2 4 558.20.
2 5 Sec. 5. Section 614.29, unnumbered paragraph 1, Code 2003,
2 6 is amended to read as follows:
2 7 As used in this ~~division~~ chapter:
2 8 Sec. 6. Section 614.30, Code 2003, is amended to read as
2 9 follows:
2 10 614.30 CONSTRUCTION LIBERAL.
2 11 This ~~division~~ chapter shall be liberally construed to
2 12 effect the legislative purpose of simplifying and facilitating
2 13 land title transactions by allowing persons to rely on a
2 14 record chain of title as described in section 614.31, subject
2 15 only to such limitations as appear in section 614.32.
2 16 Sec. 7. Section 614.36, Code 2003, is amended to read as
2 17 follows:
2 18 614.36 LESSORS, REVERSIONERS, AND EASEMENTS.
2 19 This ~~division~~ chapter shall not be applied to bar any
2 20 lessor or lessor's successor as a reversioner of the lessor's
2 21 right to possession on the expiration of any lease; or to bar

2 22 or extinguish any easement or interest in the nature of an
2 23 easement, the existence of which is apparent from or can be
2 24 proved by physical evidence of its use; or to bar any right,
2 25 title or interest of the United States, by reason of failure
2 26 to file the notice herein required.

2 27 Sec. 8. Section 614.37, Code 2003, is amended to read as
2 28 follows:

2 29 614.37 LIMITATION STATUTES NOT EXTENDED.

2 30 Nothing contained in this ~~division chapter~~ shall be
2 31 construed to extend the period for the bringing of an action
2 32 or for the doing of any other required act under any statutes
2 33 of limitations, nor, except as herein specifically provided,
2 34 to effect the operation of any statutes governing the effect
2 35 of the recording or the failure to record any instrument
3 1 affecting land. It is intended that nothing contained in this
3 2 division be interpreted to revive or extend the period of
3 3 filing a claim or bringing an action that may be limited or
3 4 barred by any other statute.

3 5 Sec. 9. Section 614.38, Code 2003, is amended to read as
3 6 follows:

3 7 614.38 PERIOD EXTENSION IN CERTAIN CASES.

3 8 If the forty-year period specified in this ~~division chapter~~
3 9 shall have expired prior to one year after July 1, 1969, such
3 10 period shall be extended one year after July 1, 1969.

3 11 Sec. 10. Sections 558.21 through 558.30 and 558.37 through
3 12 558.39, Code 2003, are repealed.

3 13 EXPLANATION

3 14 This bill repeals the acknowledgment provisions in Code
3 15 chapter 558 relating to real property conveyances and, by
3 16 operation of law, makes similar acknowledgment provisions
3 17 contained in Code chapter 9E, relating to notarial acts, the
3 18 sole acknowledgment requirements.

3 19 The bill also amends Code chapter 614 relating to
3 20 limitations of actions to make provisions relating to the Code
3 21 chapter division on marketable record title applicable to the
3 22 entire Code chapter. The provisions made applicable to the
3 23 entire chapter are those relating to definitions, liberal
3 24 construction, rights upon expiration of a lease, extension of
3 25 limitation statutes, and 40-year period extension in certain
3 26 cases.

3 27 LSB 2476SC 80

3 28 sc/pj/5